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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.932 OF 2001

Abida Ahmed Dossa ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. P.K. Dhakephalkar with Mr. Vijay Nair, Mr. S.K. Srivastav and Ms. Smita Ranpise i/b M/s. S.K. Srivastav & Co. for the petitioners.

Mr. R.F. Lambay with Mr. D.T. Palekar, Public Prosecutors for the Union of India.

Mr. B.R. Patil, Act. P.P. for the State.

WITH

CRIMINAL WRIT PETITION NO. 933 OF 2001

Sabira Salim Memon ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. P.K. Dhakephalkar with Mr. Vijay Nair, Mr. S.K. Srivastav and Ms. Smita Ranpise i/b M/s. S.K. Srivastav & Co. for the petitioners.

Mr. R.F. Lambay with Mr. D.T. Palekar, Public Prosecutors for the Union of India.

Mr. B.R. Patil, Act. P.P. for the State.

WITH

CRIMINAL WRIT PETITION NO. 934 OF 2001

Safia Mustafa Dossa ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. P.K. Dhakephalkar with Mr. Vijay Nair, Mr. S.K. Srivastav and Ms. Smita Ranpise i/b M/s. S.K. Srivastav & Co. for the petitioners.

Mr. R.F. Lambay with Mr. D.T. Palekar, Public Prosecutors for the Union of India.

Ms. A.S. Pai, A.P.P. for the State.

WITH

CRIMINAL WRIT PETITION NO. 935 OF 2001

Rehmat Haroon Merchant ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. P.K. Dhakephalkar with Mr. Vijay Nair, Mr. S.K. Srivastav and Ms. Smita Ranpise i/b M/s. S.K. Srivastav & Co. for the petitioners.

Mr. R.F. Lambay with Mr. D.T. Palekar, Public Prosecutors for the Union of India.

Ms. A.S. Pai, A.P.P. for the State.

WITH

CRIMINAL WRIT PETITION NO. 936 OF 2001

Yasmin Hanif Landa ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. P.K. Dhakephalkar with Mr. Vijay Nair, Mr. S.K. Srivastav and Ms. Smita Ranpise i/b M/s. S.K. Srivastav & Co. for the petitioners.

Mr. R.F. Lambay with Mr. D.T. Palekar, Public Prosecutors for the Union of India.

Mr. D.S. Mhaispurkar, A.P.P. for the State.

WITH

CRIMINAL WRIT PETITION NO. 937 OF 2001

Haroon Ahmed Merchant ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. P.K. Dhakephalkar with Mr. Vijay Nair, Mr. S.K. Srivastav and Ms. Smita Ranpise i/b M/s. S.K. Srivastav & Co. for the petitioners.

Mr. R.F. Lambay with Mr. D.T. Palekar, Public Prosecutors for the Union of India.

Mr. D.S. Mhaispurkar, A.P.P. for the State.

CORAM: SMT. RANJANA DESAI &
A.S. OKA, JJ.

DATED: 21ST OCTOBER, 2004.

P.C.:-

1. As the facts involved in all these petitions are more or less the same, the petitions can be conveniently disposed of by a common judgment.

2. The challenge in these petitions under Article 226 of the Constitution of India is to the show cause notices issued to the petitioners under section 6(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (for short, "the SAFEMA"). Certain preliminary objections were raised by the

petitioners to the show cause notices issued under section 6(1) of the SAFEMA. Applications were made by the petitioners before the Competent Authority for stay of proceedings under the provisions of the SAFEMA. By order dated 29/6/2001, the Competent Authority rejected the applications for stay.

3. Though this court issued rule in these petitions, interim relief was not granted. Therefore, the Competent Authority proceeded to pass orders of forfeiture under section 7 of the SAFEMA. It is an admitted position that the petitioners have challenged the orders passed under section 7 of the SAFEMA by preferring appeals before the Appellate Tribunal and the said appeals are still pending.

4. Since the substantive appeals filed by the petitioners are pending before the Tribunal, the petitioners can always raise all permissible challenges to the show cause notices issued under section 6(1) of the SAFEMA in the pending appeals. In view of this position, without expressing any opinion on merits, we are not inclined to entertain these petitions under Article 226 of the Constitution of India. The petitioners can always raise the contentions, which are raised in the present petitions, in the pending appeals.

5. In view of this position, the petitions are rejected. Rule is discharged with no order as to costs. Notwithstanding the rejection of the writ petitions, it will be open to the petitioners to raise all the contentions raised in these petitions, in the pending appeals before the Appellate Tribunal under the SAFEMA.

(SMT. RANJANA DESAI, J.)

(A.S. OKA, J.)